

DOCKET NO.: 247742US8



FW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Manhee JO, et al.

SERIAL NO: 10/757,404

GROUP: 2661

FILED: January 15, 2004

EXAMINER:

FOR: PATH CONTROL DEVICE AND PATH CONTROL METHOD

LETTER

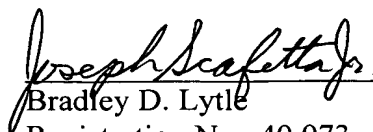
Mail Stop DD
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a European Office Action for the Examiner's consideration. The reference(s) cited therein have been previously filed on September 22, 2006.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Bradley D. Lytle

Registration No. 40,073

Joseph Scafetta, Jr.

Registration No. 26,803

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/06)



EPA/EPO/OEB
D-80298 München

Termin:
TX +49 89 2399 4000
FAX +49 89 2399 4001

ANWÄLTE

26. Okt. 2006

Europäisches
Patentamt

Generaldirektion 2

European
Patent Office

Directorate General 2

Office européen
des brevets

Direction Générale 2

GROSSE BOCKHORN SCHUMACHER
Patent- und Rechtsanwälte
Forstenrieder Allee 59
81476 München
ALLEMAGNE

Telephone numbers: Berlin sub-office

Primary Examiner
(substantive examination) +49 30 25901-494

Formalities Officer / Assistant
(Formalities and other matters) +49 30 25901-0



Application No. 04 000 886.4 - 1525	Ref. S154 EP	Date 25.10.2006
Applicant NTT DoCoMo, Inc.		

Communication pursuant to Article 96(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).



Goller, Wolfgang
Primary Examiner
for the Examining Division

Enclosure(s): 3 page/s reasons (Form 2906)

**Bescheid/Protokoll (Anlage)**

Datum
Date 25.10.2006
Date

Communication/Minutes (Annex)

Blatt
Sheet 1
Feuille

Notification/Procès-verbal (Annexe)

Anmelde-Nr.:
Application No.: 04 000 886.4
Demande n°:

The examination is being carried out on the **following application documents**:

Description, Pages

1-17 as originally filed

Claims, Numbers

1-6 as originally filed

Drawings, Sheets

1/7-7/7 as originally filed

Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure:

- Filed
Sep 22
2006
- D1: ANDREW T CAMPBELL ET AL: "COMPARISON OF IP MICROMOBILITY PROTOCOLS" IEEE PERSONAL COMMUNICATIONS, IEEE COMMUNICATIONS SOCIETY, US, vol. 9, no. 1, February 2002 (2002-02), pages 72-82, XP011093843 ISSN: 1070-9916
 - D2: RAMACHANDRAN RAMJEE ET AL: "HAWAII: A Domain-Based Approach for Supporting Mobility in Wide-Area Wireless Networks" IEEE / ACM TRANSACTIONS ON NETWORKING, IEEE / ACM, NEW YORK, NY, US, vol. 10, no. 3, June 2002 (2002-06), XP011077170 ISSN: 1063-6692

1. The application does not meet the requirements of Article 84 EPC, because claims 1 and 4 are not clear.
 - 1.1 Claims 1 and 4 define the invention by the result to be achieved, contrary to the requirements of the Guidelines C-III 4.7.

The definition "so as to be able to determine a transfer device that serves a switchover point of the path" used in claim 1 defines a result, but not in which way this result is achieved. Corresponding objections apply to the subject-matter of independent claim 4.
 - 1.2 It is furthermore noted, that the features necessary to determine the switchover point of the path are to be considered as essential to the definition of the invention, therefore, since independent claims 1, 4 do not contain these features they do not meet the requirement following from Article 84 EPC taken in combination with Rules 29(1) and (3) EPC that any independent claim must contain all the technical features



essential to the definition of the invention.

- 1.3 The features essential for the definition of the invention are defined in dependent claims 2 and 3, ie that a comparison between the pre-migration path and the post-migration path is made and that a transfer device closest to the mobile terminal in a common part between the pre-migration and the post-migration path is determined as switchover point.
2. The applicant is informed that prior art documents D1 and D2 (as well as other documents cited in the search report) define various ways of determining a switchover point (crossover router determination or discovery). It is imperative to distinguish the subject-matter of the present application from prior art by clearly defined technical features and not by results to be achieved.
It is to be noted that unclear features cannot be used to distinguish an application from prior art (Guidelines C-III 4.5, Art. 56 EPC).
3. The applicant is invited to file new claims which take account of the above comments. The applicant is furthermore informed that the examining division will only issue a further communication, if it considers a further communication - in view of the applicant's letter of reply - to lead to a procedural progress. Should the submissions filed by the applicant not lead to procedural progress and should the applicant request oral proceedings, the examining division might summon for oral proceedings, without issuing a further communication in the written procedure.
The applicant is informed that the oral proceedings would take place in Berlin.
4. To meet the requirements of Rule 27(1)(b) EPC, the documents D1 and D2 should be identified in the description and the relevant background art disclosed therein should be briefly discussed.
5. When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims. Care should be taken during revision, especially of the introductory portion and any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).



Bescheid/Protokoll (Anlage)

Communication/Minutes (Annex)

Notification/Procès-verbal (Annexe)

Datum
Date 25.10.2006
Date

Blatt
Sheet 3
Feuille

Anmelde-Nr.:
Application No.: 04 000 886.4
Demande n°:

6. In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant should clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based (see Guidelines E-II, 1).
If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.
7. Amendments should be made by filing replacement pages. Unnecessary recasting of the description should be avoided. An amended abstract is not required. The applicant should also take account of the requirements of Rule 36(1) EPC. If handwritten amendments are submitted, they should be clearly legible for the printer. According to the decision of the President of the EPO under Rule 35(2) EPC (OJ EPO 12/2001, 563) one set of the amended documents of the European patent application shall be provided.